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UBIQUITI NETWORKS, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

UBIQUITI NETWORKS, INC., a California corporation, Plaintiff, v. RAMMOHAN MALASANI, individually, DBII NETWORKS, INC., a Delaware corporation, DBII NETWORKS LIMITED, a Hong Kong corporation, and DOES 1-10, Defendants.	Case No. 5:09-cv-00237-RMW **FIRST AMENDED COMPLAINT FOR MISAPPROPRIATION OF TRADE SECRETS AND BREACH OF CONTRACT** Jury Trial Requested

INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 15(a)(2), having received Defendants' written consent to amend its pleading, Plaintiff Ubiquiti Networks, Inc. ("Ubiquiti") hereby alleges for its First Amended Complaint against Defendants on personal knowledge as to its own actions and on information and belief as to the actions of others as follows:

1. Rammohan Malasani, a former Ubiquiti employee, has engaged in misappropriation of Ubiquiti's trade secrets which enabled him to produce a recently-released, competing product. Mr. Malasani did so for his own benefit and for the benefit of his entities, defendants Dbii Networks, Inc. and Dbii Networks Limited (Hong Kong).

2. Ubiquiti hired Mr. Malasani as an engineer in March 2005. Mr. Malasani was Ubiquiti's first employee and was employed until March 2006. At the time of his departure, Mr. Malasani took with him a computer containing all schematic and layout design files of at least Ubiquiti's XtremeRange5 and LiteStation2 products, as well as company emails containing secret business and technical information. Shortly thereafter, and as Ubiquiti would later discover, Mr. Malasani founded Dbii Networks, a direct competitor to Ubiquiti.

3. At some point following his departure from Ubiquiti, Mr. Malasani misappropriated Ubiquiti's trade secrets and breached his contractual assignment of intellectual property to the company. Several months after Mr. Malasani's departure, one of Ubiquiti's top tier original equipment manufacturer (OEM) customers, Peplink, ceased placing orders with Ubiquiti. Shortly thereafter in September 2006, emails sent to Mr. Malasani's old Ubiquiti email account demonstrated that Mr. Malasani was working with Peplink to steal business away from Ubiquiti.

4. Further, in May 2007, Mr. Malasani's new company, Dbii Networks, announced that it had developed a high performance 802.11a MiniPCI radio called the F50, targeted for the 5GHz outdoor wireless market. The F50 was recently introduced to the market.

5. As Ubiquiti subsequently discovered, this product appears to be a clone of Ubiquiti's XtremeRange5 product, which Mr. Malasani had worked on while he was at Ubiquiti. Dbii Networks' F50 product contains specific trade secret information that Mr. Malasani learned

at Ubiquiti and was prohibited from disclosing to others and from using for his own benefit. Ubiquiti is entitled to recover all of Dbii Networks' unlawful gains that stem from Mr. Malasani's breach of contract and his misappropriation of trade secrets and to an injunction prohibiting further unlawful acts.

THE PARTIES

6. Plaintiff Ubiquiti is a California corporation with its principal place of business at 495-499 Montague Expressway, Milpitas, CA 95035.

7. Upon information and belief, Defendant Dbii Networks, Inc. is a Delaware corporation that represents it maintains a United States Sales Office at 201 Oak Avenue #D, Carlsbad, CA 92008. Upon information and belief, Defendant Dbii Networks Limited is a Hong Kong corporation with an office in Taiwan. According to its website, Dbii Networks "is focused on providing the best performance wireless hardware to network deployers and wireless internet service providers."

8. Upon information and belief, Defendant Rammohan Malasani currently resides in Taiwan.

9. Mr. Malasani is the founder and only officer and director of Dbii Networks, Inc. On information and belief, Mr. Malasani is also the founder and only officer and director of Dbii Networks Limited (Hong Kong). On information and belief, a unity of interest and ownership exists between Mr. Malasani and each of his Dbii Networks entities. On information and belief, Mr. Malasani personally commingles assets amongst and between his Dbii Networks entities, treating the assets of the corporations as his own. Mr. Malasani fails to maintain adequate corporate records for his Dbii entities. Under Mr. Malasani's control, Dbii Networks, Inc. and Dbii Networks Limited use the same office and address, produce and sell the same products, serve the same customers and their needs, and target the same markets. Dbii Networks, Inc. and Dbii Networks Limited share the same equitable ownership, and their officers and directors are identical. Mr. Malasani has used the name Dbii Networks, Inc. interchangeably with Dbii Networks Limited, but appears to most often refer to his enterprise as simply "Dbii" or "Dbii

Networks." Throughout this First Amended Complaint, Ubiquiti refers to Dbii Networks, Inc. and Dbii Networks Limited collectively as "Dbii Networks."

10. Ubiquiti does not know the true identities of the defendants sued as Does 1-10 and therefore sued them under fictitious names. Ubiquiti will amend this complaint to allege their true identities when those identities become known. Ubiquiti believes that each of the fictitiously named defendants is responsible in some manner for the acts described below.

JURISDICTION AND VENUE

11. By removing this action, Defendants Malasani and Dbii Networks have invoked this Court's jurisdiction under 28 U.S.C. section 1332 (diversity of citizenship) and 28 U.S.C. section 1441 (removal).

12. Venue is proper in this jurisdiction under 28 U.S.C. section 1391(a).

FACTUAL ALLEGATIONS

Ubiquiti's Innovative Technology

13. Ubiquiti was founded in 2005 to enable ubiquitous wireless broadband networking to meet the growing demand for broadband voice, video, and data communications. Ubiquiti's patent-pending technologies and innovative designs have produced products with large OEM, distributor, and carrier customer following. For example, Ubiquiti's XtremeRange series of radio modules is the first true carrier-class 802.11a based radio module specifically designed for mesh, bridging, and infrastructure applications. Ubiquiti's XtremeRange series leverages knowledge and experiences gained from customer interaction, field performance evaluations, and lab research to facilitate wireless broadband networking. Ubiquiti's XtremeRange5 product is a 5GHz radio module. Additionally, Ubiquiti's LiteStation2 platform is a first of its kind industrial, high-power Wi-Fi development platform that features superior radiofrequency (RF) performance, reliability, and full Linux software development kit (SDK) support.

14. Defendant Rammohan Malasani was the first employee hired by Ubiquiti in March 2005. Mr. Malasani was hired as an engineer, and was a Ubiquiti employee until March 2006. During his employment at Ubiquiti, Mr. Malasani was responsible for various segments of

Ubiquiti's XtremeRange5 product, as well as other products. For example, Mr. Malasani worked on combiner RF design, the MMCX RF connector, design/bill of materials (BOM), and custom heatsink portions of the XtremeRange5 product.

15. In 2005, Mr. Malasani signed an Assignment of Intellectual Property Interests effective as of February 1, 2004, assigning all of his right, title, and interest in and to various intellectual property generally covering integrated wireless transceiver technology to Ubiquiti's predecessor-in-interest, Pera Networks, Inc. Ubiquiti is the holder of those contract rights. A copy of the Assignment of Intellectual Property Interests is attached hereto as Exhibit A.

16. During his employment at Ubiquiti, Mr. Malasani gained knowledge of Ubiquiti trade secrets he would later misappropriate. For example, Mr. Malasani was in possession of certain innovative technical ideas and product reference designs that are now the subject of this action.

Mr. Malasani Leaves Ubiquiti and Founds a Competing Venture

17. Ubiquiti provided Mr. Malasani with company stock with the expectation that he would help the company grow and prosper. Instead, in March 2006, Mr. Malasani left Ubiquiti. As Ubiquiti would later discover, Mr. Malasani's plan was to develop directly competitive, highly similar products.

18. Upon leaving the company, Mr. Malasani took with him a computer belonging to Ubiquiti which contained electronic copies of Ubiquiti's schematic and layout design files for at least Ubiquiti's ExtremeRange 5 and LiteStation2 products; he also took company email stored in a personal email account. Mr. Malasani has not returned this computer to Ubiquiti as of this date.

19. Following his departure from Ubiquiti, Mr. Malasani founded his competing venture Dbii Networks. At some point, Dbii Networks released a high performance 802.11a MiniPCI radio, called F50, which is a clone of Ubiquiti's XtremeRange5 product, and is targeted for the 5GHz outdoor wireless market – the same market targeted by Ubiquiti's XtremeRange5 product. Upon information and belief, Dbii Networks has developed, or is in the process of developing, a complete system platform called WBD-500, which is a clone of Ubiquiti's

LiteStation2 system platform, and also is targeted for the same market. Ubiquiti learned the facts when it was able to obtain an F50 after the product was introduced to the market.

20. Additionally, several months after Mr. Malasani's departure, one of Ubiquiti's top tier original equipment manufacturer (OEM) customers, Peplink, ceased placing orders with Ubiquiti. Shortly thereafter in September 2006, emails sent to Mr. Malasani's old Ubiquiti email account demonstrated that Mr. Malasani was working with Peplink to steal business away from Ubiquiti.

Mr. Malasani Misappropriates Ubiquiti's Trade Secrets

21. Both Ubiquiti's XtremeRange5 and Dbii Networks' F50 products are based on Atheros MB62 mini-PCI reference design, and have several qualities in common that are significant deviations from reference design and that are not present in any other mini-PCI card in the industry. In fact, the F50 appears to be a clone of Ubiquiti's XtremeRange 5 product.

22. Dbii Networks' F50 product employs Ubiquiti trade secrets in its design. Indeed, the F50 contains significant engineering deviations from industry standard designs – deviations that match the XtremeRange 5. Both products, for example, employ unique IC design, unique coupling, and employ unorthodox modifications – as well as numerous other similarities not found in industry standard designs. The XtremeRange 5 IC output match and combining circuitry even reflect a Ubiquiti idea later found to be non-optimal.

23. Specifically, both products use an 802.11a 5GHz only operation. Both use a dual Sirenza SZA-5044 Power Amplifier IC used in the combiner circuit for a high power design. Both use a Plateau heatsink coupled to slugs of the Sirenza SZA-5044 ICs. Both use a 3.3V PCI bus to a 5V step-up regulator implemented by an MPS1517 switcher IC. Both employ LED power on the indicator and both use a custom MMCX RF connector originally designed by Ubiquiti.

24. The number of direct overlaps and design similarities establishes without a doubt that the XtremeRange 5 took advantage of internal, non-public Ubiquiti design methods and information. The external similarities described above are exactly what would be expected when an employee misuses internal, secret specifications and design ideas to clone a product.

25. Upon information and belief, Mr. Malasani wrongfully used Ubiquiti trade secret information to commence a competitive venture that would undermine Ubiquiti's business opportunities.

FIRST CAUSE OF ACTION

(Misappropriation of Trade Secrets – California UTSA)

(Against All Defendants)

26. Ubiquiti incorporates all of the allegations contained in paragraphs 1 through 25.

27. Ubiquiti possesses trade secrets as defined by California's version of the Uniform Trade Secrets Act, Civil Code sections 3426-3426.11.

28. At a high level, these trade secrets fall within categories of information relating to design of high performance radio modules for wireless broadband networking.

29. Ubiquiti's trade secrets derive independent economic value by virtue of not being generally known to third parties, and would be of great value to market competitors.

30. Ubiquiti has taken reasonable measures to maintain the secrecy of these trade secrets.

31. Ubiquiti disclosed the details of each trade secret at issue in this lawsuit to Mr. Malasani in the course of his employment with Ubiquiti. Mr. Malasani understood such details. Mr. Malasani's duty not to use or disclose this information arises from his employment status with Ubiquiti and his assignment contract.

32. Mr. Malasani unlawfully disclosed this information to Dbii Networks, which knew or should have known that the information could not lawfully be used or disclosed by Mr. Malasani. Dbii Networks is therefore liable for its use of Ubiquiti trade secrets.

33. Defendants have misappropriated and threaten to further misappropriate Ubiquiti's trade secrets by, among other things, (1) using them in Dbii Networks' F50 product and marketing this product; and (2) using them, or preparing to use them, in Dbii Networks' products under development.

34. Ubiquiti has suffered damages, and Defendants have been unjustly enriched in an amount to be proven at trial as a direct result of Defendants' trade secret misappropriation.

35. Defendants' trade secret misappropriation has caused and continues to cause Ubiquiti irreparable injury and therefore cannot be fully redressed through damages alone. An injunction prohibiting Defendants from further use or disclosure of Ubiquiti's trade secrets – in particular, to prevent any further sales of products made using or containing Ubiquiti trade secrets – is necessary to provide Ubiquiti complete relief.

36. Ubiquiti therefore prays for relief as set forth below.

SECOND CAUSE OF ACTION

(Breach of Contract)

(Against Defendant Malasani)

37. Ubiquiti incorporates all of the allegations contained in paragraphs 1 through 36.

38. Mr. Malasani breached his contractual assignment of intellectual property know-how to Ubiquiti's predecessor-in-interest. This contract is attached as Exhibit A

39. Ubiquiti has been damaged by these breaches of contract and the competitive activities that have resulted from these breaches of contract. Ubiquiti is entitled to recover damages from Mr. Malasani in an amount to be determined at trial.

40. Ubiquiti therefore prays for relief as set forth below.

PRAYER FOR RELIEF

WHEREFORE, Ubiquiti requests an entry of judgment against Defendants as follows:

1. That Dbii Networks and each of their officers, agents, employees, representatives, shareholders, affiliates, and all persons acting on their behalf, including the individual defendant, be permanently enjoined and restrained from using, copying, dealing with, trading in, and otherwise misappropriating the Ubiquiti trade secrets that Mr. Malasani delivered to Dbii Networks; such injunction to include, at a minimum, a prohibition on the sale of any Dbii Networks product shown to include, or have been developed using, Ubiquiti trade secrets;

2. For an accounting of all uses and disclosures Mr. Malasani and Dbii Networks have made of Ubiquiti trade secrets;

3. For imposition of a constructive trust on all Dbii Networks' ideas, designs, and information that flowed from Mr. Malasani's breach of contract and misappropriation of trade secrets;

4. That all Defendants be ordered to turn over all Ubiquiti's information, materials, confidential information, and trade secrets in their possession, in any form including any copies, to Ubiquiti;

5. That Mr. Malasani and all persons acting on his behalf be permanently enjoined and restrained from using, copying, dealing with, trading in, and otherwise misappropriating any trade secrets to which he or they had access to while at Ubiquiti;

6. That this Court order all Defendants to disgorge all of their profits and other unjust enrichment from their unlawful acts, and all other sums constituting their unjust enrichment from their unlawful conduct;

7. For compensatory damages according to proof, on information and belief of at least $200,000.

8. For exemplary damages according to proof;

9. For its costs of suit including reasonable attorney and expert fees;

10. For prejudgment and post judgment interest; and

11. For such other and further relief as the Court deems just and proper.

Dated: May 11, 2009

RAO ONGARO BURTT & TILIAKOS LLP

By: /s/ *David R. Burtt*
David R. Burtt

Attorneys for Plaintiff
UBIQUITI NETWORKS, INC.

CERTIFICATE OF SERVICE

I certify that all counsel of record are being served on May 11, 2009 with a copy of this document via the Court's CM/ECF system:

- Sean P. DeBruine (SBN 168071) sean.debruine@alston.com
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